

1 Vanessa R. Waldref
2 United States Attorney
3 Todd M. Swensen
4 Assistant United States Attorney
5 Kate M. Moore
6 Law Clerk
7 Post Office Box 1494
8 Spokane, WA 99210-1494
9 Telephone: (509) 353-2767

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 18, 2025

SEAN F. MCAVOY, CLERK

8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF WASHINGTON

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 MATTHEW J. SCHMIERER,

14 Defendant.

Case No.: 1:24-CR-2062-SAB-2

UNSUPERVISED PRETRIAL
DIVERSION AGREEMENT

15 Plaintiff United States of America, by and through Vanessa R. Waldref, United
16 States Attorney for the Eastern District of Washington, Todd M. Swensen, Assistant
17 United States Attorney, and Kate M. Moore, Law Clerk, and MATTHEW J.
18 SCHMIERER (hereinafter "Defendant"), and by and through Defendant's counsel,
19 Christine Bennett, agree to the following Unsupervised Pretrial Diversion Agreement.

20 **A. CHARGE**

21 Beginning on or about March 18, 2023, and continuing until on or about May
22 20, 2023, in the Eastern District of Washington, within Yakima County, Defendant,
23 while on land of the United States reserved by the United States for public use, did
24 unlawfully cut or destroy trees standing and growing, to wit: live trees within the
25 boundary of Okanogan-Wenatchee National Forest, all in violation of 18 U.S.C.
26
27
28

1 § 1853, a Class A misdemeanor. The charging instrument is an Information filed at
2 ECF No. 1.

3 **B. POTENTIAL OUTCOMES**

4 If Defendant is convicted as charged in the Information filed at ECF No. 1, he
5 will be subject to a sentence that may include the following:

- 6 (1) A term of imprisonment for not more than one (1) year;
7 (2) A term of supervised release of not more than one (1) year;
8 (3) Up to a \$100,000.00 fine; and,
9 (4) A \$25.00 special assessment fee.

10 **C. ELEMENTS OF THE OFFENSE**

11 The United States and Defendant agree that in order to convict Defendant of
12 unlawfully cutting or destroying trees standing and growing upon any land of the
13 United States, to wit: live trees within the boundary of Okanogan-Wenatchee National
14 Forest, in violation of 18 U.S.C. § 1853, the United States would have to prove
15 beyond a reasonable doubt the following elements:

- 16 (1) The Defendant unlawfully cut or destroyed trees; and
17 (2) The cut or destroyed trees were growing or standing upon any land of the
18 United States.

19 **D. WAIVER OF CONSTITUTIONAL RIGHTS**

20 By entering into this Agreement, Defendant is knowingly and voluntarily giving
21 up the following constitutional rights:

- 22 (1) The right to a speedy and public trial;
23 (2) The right to a bench trial;
24 (3) The right to see, hear, and question the witnesses;
25 (4) The right to remain silent at trial;
26 (5) The right to testify at trial;
27 (6) The right to compel witnesses to testify; and
28

1 (7) The right to appeal a judgment of guilt.

2 Defendant understands that he is entitled to a bench trial, during which a
3 judicial officer would determine whether the United States proved Defendant guilty of
4 the charged conduct beyond a reasonable doubt.

5 Defendant knowingly, intelligently, and voluntarily waives each of the rights
6 set forth above, and his right to a trial of this case by the Court.

7 **E. TOLLING**

8 Defendant stipulates and agrees to toll the running of all applicable statutes of
9 limitations and any time-based defenses for the Covered Conduct. This tolling shall
10 run from the date the Agreement is signed by all parties until the Agreement expires
11 or is terminated by the Court. Defendant stipulates and agrees that the Agreement's
12 tolling provision does not abridge or curtail the applicable statute of limitations in any
13 way, but rather extends the applicable statute of limitations by the period of time that
14 the Agreement is in effect.

15 Defendant further expressly waives indictment and all rights to a speedy
16 indictment and/or trial pursuant to the Sixth Amendment of the United States
17 Constitution, 18 U.S.C. § 3161, Federal Rule of Criminal Procedure 48(b), and any
18 applicable Local Rules of the United States District Court for the Eastern District of
19 Washington for the period during which this Agreement is in effect.

20 **F. AGREEMENTS REGARDING THE FACTUAL BASIS**

21 The United States and Defendant agree that the facts set forth in the Factual
22 Basis section of this Agreement constitute a sufficient factual basis for a judicial
23 finding that Defendant unlawfully, willfully, and knowingly cut and destroyed any
24 tree growing, standing, or being upon any land of the United States in violation of 18,
25 U.S.C. § 1853. The United States and Defendant agree that the United States could
26 prove the facts in the Factual Basis beyond a reasonable doubt at trial, and that the
27 facts in the Factual Basis are sufficient for the Court to make findings and enter
28 judgment against the Defendant on the charge set forth in the citation.

1 The United States and Defendant agree that if Defendant violates the terms of
2 this Agreement, the Court may accept the Factual Basis as true and may impose
3 judgment accordingly, without conducting further factual inquiry.

4 The United States and Defendant agree that if the Court finds that Defendant
5 has violated any term of this Agreement, neither the United States nor Defendant will
6 do any of the following at any proceeding:

- 7 (1) Dispute that the Factual Basis is sufficient to support the charge;
- 8 (2) Present any evidence or facts that are not in the Factual Basis;
- 9 (3) Make any attempt to prove or negate any element of the charge; or
- 10 (4) Make any argument that any element of the charged offense has not been
11 established by the Factual Basis.

12 **G. FACTUAL BASIS**

13 On or about May 18, 2023, United States Forest Service (“USFS”) Officers
14 (“officers”) discovered the remnants of six live trees that had been cut down at two
15 locations within the boundary of Okanogan-Wenatchee National Forest. Both
16 locations are along Bethel Ridge Road (FS 1500.114), in areas where the cutting and
17 removal of live trees is prohibited by federal law. As a response to this evidence and
18 reports of similar illegal cutting of live trees in the area, Officers set up two game
19 cameras to capture the identity of the suspects.

20 On May 25, 2023, Officers returned to the area and discovered that six more
21 live trees had been cut down and processed in the area where the game cameras had
22 been set up. Game camera footage from the early morning of May 20, 2023, showed
23 two individuals—later determined to be Defendant and co-defendant TAYLOR E.
24 PRYSE (hereinafter referred to as “co-defendant PRYSE”)—cutting green trees using
25 chainsaws and other tools. Photos and footage also captured two pickup trucks—one
26 blue Ford F-150 hauling a black trailer, and a silver Ford F-350, leaving the area
27 loaded with wood rounds appearing to be Douglas Fir trees. Officers later determined
28

1 that PRYSE owned the Silver Ford F-350, and that Defendant owned the black trailer.
2 Golden Gate Hop Ranches, Inc. owned the Blue F-150 pickup truck.

3 On June 2, 2023, USFS Timber Management Assistant (“TMA”) personnel and
4 officers returned to the area and confirmed the recently cut trees were Douglas Firs.
5 Later that week, TMA reported that based on the location and type of wood, the value
6 of the cut timber (12 Douglas Fir trees) would be \$1,850 as firewood, or \$2,360 as
7 sawtimber.

8 On June 21, 2023, officers arrived at the Defendant’s Residence where they
9 observed a large pile of cut wood. The Defendant admitted to cutting green trees on
10 one occasion with co-defendant PRYSE, without a Forest Products Free Use Permit.
11 After admitting to cutting wood with co-defendant PRYSE, the Defendant gave the
12 officers permission to seize the firewood in the driveway.

13 Accordingly, Defendant acknowledges and agrees that on or about March 18,
14 2023, and continuing until on or about May 20, 2023, the Defendant, did unlawfully
15 cut or destroy trees standing and growing, to wit: live trees within the boundary of
16 Okanogan-Wenatchee National Forest, on land of the United States, in violation of 18
17 U.S.C. § 1853.

18 **H. DEFENDANT’S OBLIGATIONS**

19 The Defendant acknowledges and agrees that pursuant to the terms of this
20 Agreement, he shall do the following:

- 21 (1) Defendant shall refrain from obtaining woodcutting permits for any
22 National Forests within the Eastern District of Washington for one (1)
23 year from the date of entry of the Agreement;
 - 24 (2) Defendant shall pay \$300 in restitution to United States Forest Service.
25 Defendant shall provide proof of payment to the United States Attorney’s
26 Office for the Eastern District of Washington within 12 months of the
27 Court’s entry of this Agreement onto the docket;
- 28

- 1 (3) Pay a \$25.00 fee to the Central Violations Bureau and provide written
2 proof of such payment to the United States Attorney's Office of the
3 Eastern District of Washington, through his attorney, within six (6)
4 months of the Court's entry of this Agreement onto the docket;
- 5 (4) Beginning on the Court's entry of this Agreement onto the docket, the
6 Defendant shall obey all laws and shall not commit any violations of
7 federal, state, or local law while this Agreement is active. Civil and non-
8 criminal traffic violations will not constitute "violations" for purposes of
9 this subparagraph of this Agreement. This obligation applies for the term
10 of this Agreement.

11 **I. THE UNITED STATES' OBLIGATIONS**

12 For a term of 24 months, beginning on the Court's entry of this Agreement onto
13 the docket, the United States will not pursue prosecution of the Defendant in the
14 Eastern District of Washington for the conduct charged in the Information filed at
15 ECF No. 1. Further, the United States will move to dismiss the citation after the
16 completion of the 24-month restrictions and payments have been satisfied, so long as
17 the Defendant complies with his obligations as set forth in this Agreement.

18 **J. AGREED PROCEDURES**

19 The United States and the Defendant agree that the following procedures will
20 govern this Agreement and its execution:

- 21 (1) The United States and the Defendant agree to seek a continuance of this
22 case for a term of 24 months after the Court's entry of this Agreement onto
23 the docket. If the Defendant complies with his obligations as set forth in
24 this Agreement, the United States will move to dismiss with prejudice the
25 charge in the information at ECF No. 1 filed no earlier than 24 months
26 after the Court's entry of this Agreement onto the docket. The United
27 States' agreement to dismiss with prejudice the charge of disorderly
28 conduct upon the Defendant's successful compliance with this Agreement

1 does not in any way limit or foreclose the United States' ability to bring
2 new or additional future charges against the Defendant in any other
3 charging instrument;

4 (2) For a term of 24 months after the Court's entry of this Agreement onto the
5 docket, the United States may allege at any time that the Defendant has
6 violated the terms of this Agreement or has failed to comply with one or
7 more of his obligations under this Agreement. If the United States makes
8 such an allegation, the Court may conduct a hearing to determine if the
9 Defendant has violated the terms of the Agreement. The United States and
10 the Defendant understand that if the Court concludes that he has violated
11 the terms of the Agreement, the Court may take any next step that the
12 Court deems just, including, but not limited to, the following:

13 (a) The Court may remove the Defendant from pretrial diversion, accept
14 the Factual Basis set forth in this Agreement as true, enter a judgment
15 of conviction on the underlying charge, and impose sentence on the
16 underlying charge without any further inquiry into the facts
17 supporting the charge;

18 (b) The Court may order that the Defendant continue with the conditions
19 of pretrial diversion; and/or

20 (c) The Court may order additional or different conditions of pretrial
21 diversion.

22 (3) The United States and the Defendant understand and agree that by
23 accepting this Agreement and entering it into the Court's docket, the Court
24 makes no findings or conclusions regarding the facts of the case or the
25 offense alleged.

26 **K. INTEGRATION CLAUSE**

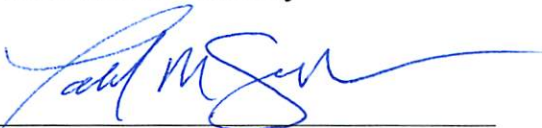
27 The United States and the Defendant acknowledge that this document
28 constitutes the entire Pretrial Diversion Agreement between the United States and the

1 Defendant, and no other promises, agreements, or conditions exist between the United
2 States and the Defendant concerning the resolution of this case. This Agreement is
3 binding only upon the United States Attorney's Office for the Eastern District of
4 Washington, and cannot bind other federal, state, or local authorities. The United
5 States and the Defendant agree that this Agreement cannot be modified except in
6 writing, signed by the United States and the Defendant.

7 **APPROVALS AND SIGNATURES**

8 Agreed and submitted on behalf of the United States Attorney's Office for the
9 Eastern District of Washington.

10
11 Vanessa R. Waldref
12 United States Attorney

13 

14 Todd M. Swensen
15 Assistant United States Attorney

18 Feb 25
Date

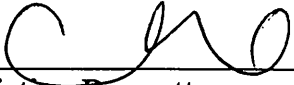
16
17 I have read this Agreement and have carefully reviewed and discussed every
18 part of the Agreement with my attorney. I understand and voluntarily enter into this
19 Agreement. Furthermore, I have consulted with my attorney about my rights, I
20 understand those rights, I waive them as set forth in this Agreement and no one has
21 threatened or forced me in any way to enter into this Agreement. I further understand
22 that by agreeing to continue this matter as set forth in this Agreement, I am agreeing
23 to follow the procedures set forth in this Agreement. I understand the conditions of
24 this Agreement and agree that I will comply with those conditions.

25 

26 Matthew J. Schmierer
27 Defendant

2/18/2025
Date

1 I have read this agreement and have discussed its contents with my client. The
2 Agreement accurately and completely sets forth the entirety of the agreement between
3 the parties. I concur in my client's decision to enter into this Agreement. There is no
4 legal reason why the Court should not accept this Agreement.

5
6 
7 Christine Bennett
8 Attorney for Defendant
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2/18/25
Date